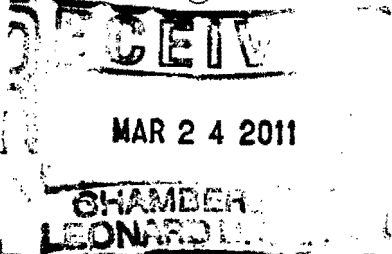


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March 23, 2011

Via Overnight Delivery

The Honorable Leonard B. Sand
 United States District Judge
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl Street
 New York, New York 10007-1312

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 DOC#
 DATE FILED: 3/29/11

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 3-28-11
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**RE: Hartman, et al. v. Ivy Asset Management, et al., 09-Civ-08278,
 Master File 09-Civ. 0777 (LBS) (AJP)**

Dear Judge Sand:

We write on behalf of the Plaintiffs in *Hartman, et al. v. Ivy Asset Management, et al.*, 09-Civ-08278, which was consolidated with *In re Beacon Assoc. Litig.*, No. 09-Civ. 0777 (LBS) (AJP). On February 16, 2011, Defendants Ivy Asset Management LLC, Lawrence Simon, Howard Wohl, and Adam Geiger (the "Ivy Defendants") filed a Motion to Dismiss and for Reconsideration and supporting documents (Docket Nos. 68-71). Plaintiffs' opposition is due May 6, 2011. Also on February 16, 2011, the Ivy Defendants filed a Motion to Dismiss the then-operative complaint of the Secretary of Labor in *Solis v. Beacon Associates Management Corp.*, et al., No. 10-Civ. 08000 (LBS) (AJP). The Secretary has since filed an amended complaint.

In their memorandum in support of their motion to dismiss and for reconsideration in *Hartman*, the Ivy Defendants purport to incorporate by reference their entire memorandum in support of their motion to dismiss in *Solis*. See, e.g., Docket No. 69 at 5, 14. By so doing, the Ivy Defendants have attempted to submit approximately 40 pages of memoranda in support of their motion to dismiss and for reconsideration, rather than the 25 pages to which they are entitled under your Honor's individual practices. Notably, the Ivy Defendants have attempted to incorporate by reference a document that is no longer even operative, because it has been superseded by an amended complaint.

MEMO ENDORSED - 12
 BY ECF

In light of the Ivy Defendants' attempt to incorporate a moot memorandum by reference, Plaintiffs must respond to 40 pages of argument, some of which is geared toward a different complaint than Plaintiffs', within the 25 pages allowed for an opposition memorandum. To eliminate the prejudice to Plaintiffs from this situation, Plaintiffs respectfully request that the Court either (1) disregard the moot *Solis* memorandum in deciding the motion to dismiss and for reconsideration in *Hartman*, or (2) extend to 40 pages the page limit for the *Hartman* Plaintiffs' opposition to the Ivy Defendants' motion to dismiss and for reconsideration. Thank you for your consideration.

Respectfully submitted,

LEWIS, FEINBERG, LEE,
RENAKER & JACKSON, P.C.

KELLER ROHRBACK L.L.P.

By *Margo Hasselman*
Margo Hasselman

By *David S. Preminger*
David S. Preminger

cc: All counsel (by email)

*Referred to Magistrate Judge
Peck.*

Endorsed
L.B. Sand
VSP
3/28/2011

MEMO ENDORSED 3/29/11

*25 Hartman Plaintiffs are given
a 40 page brief but should
file as short a brief as
possible.*

SO ORDERED:

[Signature]
Hon. Andrew Jay Peck
United States Magistrate Judge

*copy LEP, followed
not Sand*

MEMO ENDORSED

BY ECF

ECF TRANSCRIPTION SHEET



ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT
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United States Courthouse
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New York, N.Y. 10007-1312

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Dated: March 29, 2011

Total Number of Pages: 3

TRANSCRIPTION OF MEMO ENDORSED ORDER

The Hartman plaintiffs may file a 40 page brief (but should file as short a brief as possible).

Copies by ECF to: All Counsel
Judge Leonard B. Sand